



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION I**

5 Post Office Square, Suite 100  
Boston, MA 02109-3912

7 November 2011

LT Colonel Richard M. Bertone  
Deputy Post Commander  
Camp Edwards, MA 02542-5003

RE: Compliance Issues with the J, K and T Ranges Best Management Practices: Operations, Maintenance, and Monitoring Plans

Dear LT Colonel Bertone:

EPA has reviewed the monthly reports submitted by the Massachusetts National Guard ("MANG") with respect to the J, K, and T Ranges during the period of June through September 2011. Based on this review, EPA has determined that the MANG and the National Guard Bureau ("NGB") have violated several requirements of Safe Drinking Water Act (SDWA) Administrative Order No. I-97-1030 (referred to herein as "AO2").

In May 1997, under the authority of SDWA § 1431(a), 42 U.S.C. § 300i(a), EPA issued AO2 to the NGB and MANG. AO2 required NGB and the MANG to cease all firing of lead ammunition or other "live" ammunition at small arms ranges at or near the Training Range and Impact Area. *See* AO2, Appendix A, Paragraph II.A.1.a. In 2007, upon request by the MANG, EPA amended AO2 by adding Appendix B (Limited Authorization for Lead Ammunition Training), which allowed the MANG to conduct lead ammunition training under specified conditions for a limited pilot project on T (Tango) Range from 1 August 2007 through 31 December 2008. On 28 January 2009, upon request by the MANG, EPA again amended AO2 by adding Appendix C (Revised Limited Authorization for Lead Ammunition Training (RLALAT)), which allowed the MANG to conduct lead ammunition training under specified conditions for an additional limited pilot project on T (Tango), J (Juliet), and K (Kilo) Ranges, through 31 December 2009.

The RLALAT specifies the conditions under which MANG may conduct such training and the work that MANG must perform associated with such training. These conditions include adherence to the following provisions:

**II. LIMITED AUTHORIZATION**

\* \* \*

B. During the authorized period, Respondents and persons operating under their supervision may fire lead ammunition at T, J, and K Ranges, subject to the following conditions:

1. The provisions of the T Range Best Management Practices: Operations,

Maintenance, and Monitoring Plan (dated January 23, 2009) and the Juliet and Kilo Best Management Practices: Operations, Maintenance, and Monitoring Plans (dated January 23, 2009) are hereby incorporated by reference. Respondents must fully perform the activities described in the plan for the corresponding range.

\* \* \*

C. The conditions of Paragraph II.B. are fully enforceable requirements of the Order and violations of any of the above conditions may be subject to penalties under the Order.

\* \* \*

F. Except as specifically stated in this RLALAT, MANG remains obligated to comply with all the terms and conditions of the Order, including Appendix A (Scope of Work) and Appendix B (Limited Authorization for Lead Ammunition Training).

The Operations, Maintenance, and Monitoring Plans (OMMPs) cited in the RLALAT were prepared and submitted by the MANG as part of its request for authorization for additional training with lead ammunition.

On 12 January 2010, EPA by letter extended the RLALAT through 31 December 2010 and added one additional interim deadline. On 14 January 2011, EPA by letter again extended the RLALAT through 31 December 2011 and added three additional interim deadlines. Both the 12 January 2010 and the 14 January 2011 extension letters stated that "[t]he conditions for operation of Juliet, Kilo, and Tango Ranges shall remain in accordance with the 28 January 2009 EPA approval letter and Appendix C to . . . AO2."

On 3 May 2011, EPA by letter notified the MANG that the MANG had violated several of the requirements of AO2. Most of these violations pertained to sampling and analysis work that the MANG failed to perform in 2009 and 2010 in accordance with the approved plans. In addition, the MANG failed to notify EPA of its ongoing non-compliance with the approved plans. As a result of these issues, EPA shortened the approved pilot period for training with lead bullets from 31 December 2011 to 30 June 2011, and imposed additional reporting requirements in an effort to ensure that compliance issues would be identified by the MANG and resolved in a timely fashion. EPA's 3 May 2011 letter explained that EPA considered "... MANG's failure to inform EPA of its ongoing noncompliance with the approved OMMPs, to be serious." On 27 June 2011, after the successful completion of the required sampling and analysis event, EPA extended the RLALAT through 31 December 2011.

As stated in the RLALAT and repeated in the 3 May 2011 letter, the MANG's authority to fire lead ammunition at T, J, and K Ranges is subject to the MANG performing all of the activities described in the ranges' respective OMMPs, and violations of the requirements of these plans constitute violations of AO2. On 1 September, 2011, EPA conducted a site visit of the ranges and noted an issue with the water collecting within the STAPP systems. The water levels in the STAPP systems appeared to exceed the action levels for disposal specified within the approved OMMPs. As a result of this observation, EPA reviewed the monthly progress reports and identified several violations. Based on the monthly progress reports submitted by the MANG, the following requirements of the J, K and T Ranges Best Management Practices: Operations, Maintenance, and Monitoring Plans (dated 23 January 2009) have not been followed:

Failure to remove and dispose of contaminated water that accumulated in the STAPP Bullet Capture System according to the approved plans.

- 1) The T Range OMMP requires that *"Camp Edwards will sample, collect, and properly dispose of the liquid that accumulates in the corrugated plastic reservoir within the T Range STAPP system after 15 cm of rain (or 152 cm of snow) or after 15 or more cm of water accumulates in the reservoir. Water removal from the internal reservoir will be scheduled to occur within 72 hours, weather permitting."* Water was not collected and disposed of at T Range within 72 hours after 15 or more cm of water was measured in the reservoir on 12 May 2011, and including the following additional dates when 15 or more cm of water was measured in the reservoir: 23 June 2011, 12 July 2011, and 17 August 2011.
- 2) The J Range OMMP requires that *"Camp Edwards will sample, collect, and properly dispose of the liquid that accumulates in the corrugated plastic reservoir within the J Range STAPP™ system after 15 cm of water accumulates in the reservoir. Water removal from the internal reservoir will be scheduled to occur within 72 hours, weather permitting."* Water was not collected and disposed of at J Range within 72 hours after 15 or more cm of water was measured in the reservoir on 14 July 2011.
- 3) The K Range OMMP requires that *"Camp Edwards will sample, collect, and properly dispose of the liquid that accumulates in the corrugated plastic reservoir within the K Range STAPP system after 15 cm of water accumulates in the reservoir. Water removal from the internal reservoir will be scheduled to occur within 72 hours, weather permitting"*. Water was not collected and disposed of at K range within 72 hours after 15 or more cm of water was measured in the reservoir on 12 May 2011, and including the following additional dates when 15 cm or more of water was measured in the reservoir: 14 June 2011, 13 July 2011, and 12 August 2011.

Failure to notify EPA that water accumulated in the STAPP Bullet Capture System could not be removed according to the approved plans.

- 1) In a letter dated 3 May 2011, EPA required that, *"In the event that the MANG determines or anticipates that it may not be able to comply with any requirement (including sampling, reporting, range management, and all other requirements) of the approved plans, the MANG shall within 24 hours of this determination notify EPA in writing, and within an additional 48 hours, submit a plan for EPA approval for addressing the potential deviation from the approved plan."* MANG did not notify EPA within 24 hours of determining or anticipating that it might not be able to comply with the requirement to collect and dispose of water from the reservoir at T Range after measuring an exceedance of the action level on 12 May 2011, 23 June 2011, 12 July 2011, and 17 August 2011.
- 2) In a letter dated 3 May 2011, EPA required that, *"In the event that the MANG determines or anticipates that it may not be able to comply with any requirement (including sampling, reporting, range management, and all other requirements) of the approved plans, the MANG shall within 24 hours notify EPA in writing, and within an additional 48 hours, submit a plan for EPA approval for addressing the potential deviation from the approved plan."* MANG did not

notify EPA within 24 hours of determining or anticipating that it might not be able to comply with the requirement to collect and dispose of water from the J Range reservoir after measuring an exceedance of the action level on 14 July 2011.

- 3) In a letter dated 3 May 2011, EPA required that, *"In the event that the MANG determines or anticipates that it may not be able to comply with any requirement (including sampling, reporting, range management, and all other requirements) of the approved plans shall within 24 hours notify EPA in writing, and within an additional 48 hours, submit a plan for EPA approval for addressing the potential deviation from the approved plan."* MANG did not notify EPA within 24 hours of determining or anticipating that it might not be able to comply with the requirement to collect and dispose of water from the K Range reservoir after measuring an exceedance on 12 May 2011, 14 June 2011, 13 July 2011 and 12 August 2011.
- 4) In a letter dated 3 May 2011, EPA required that, *"By the 10<sup>th</sup> day of every month, the MANG shall submit a monthly report that:...4) describes all actions scheduled for the next six weeks and provide other information relating to the progress of work under the Order; including information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the work, and a description of effort made to mitigate those delays or anticipated delays."* The monthly reports submitted in June, July, August and September, did not contain any information regarding the delays encountered and the efforts made to mitigate those delays.

By failing to perform the above-cited requirements of the T, J, and K Ranges Best Management Practices: Operations, Maintenance, and Monitoring Plans (January 23, 2009), the MANG violated AO2 and, consequently, Section 1431 of the SDWA.

EPA considers the above-mentioned violations to be serious especially given that (1) they followed after EPA's 3 May 2011 letter, and (2) the MANG's failure to pump the STAPP system of contaminated water or to timely notify EPA of its failures posed a risk of further contaminating the sole source aquifer. Furthermore, the violations, and the MANG's subsequent explanation of why the violations occurred, indicate systemic organizational flaws that raise serious questions as to whether the MANG can successfully manage the STAPP system according to the OMMPs that the MANG itself submitted.

The Pilot Period authorizing the firing of lead bullets expires of its own accord (i.e., without any further action by EPA) on 31 December 2011. Please be advised that EPA will not extend the pilot beyond this date unless the MANG can demonstrate that it is capable of complying with all of the requirements of the approved OMMP Plans. To receive authorization for the pilot and the firing of lead bullets at J, K and T Range, the MANG must, at a minimum, demonstrate the following: 1) funding is available, obligated and committed to conduct all sampling and analysis, water disposal, repairs and reporting requirements at the start of and throughout 2012, 2) the necessary contracts are in place before the start of 2012 to implement all requirements of the OMMPs, and 3) an environmental management system, and appropriate internal standard operating procedures are in place to ensure compliance with all requirements and to ensure that the proper notifications are made. The demonstration noted above shall be submitted to EPA in writing no later than 15 December 2011 and shall include the following:

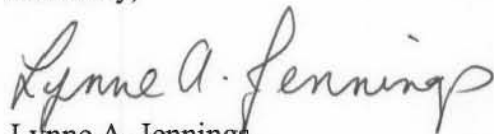


- 1) A statement identifying the funding committed by the MANG to conduct the monitoring and maintenance activities for the 2012 calendar year. The statement should provide information to demonstrate that the funding is sufficient to cover the routine maintenance and monitoring activities specified in the OMMPs. The statement should also provide information on the procedures that will be followed in the event that additional funding is determined to be necessary to achieve compliance with any aspect of the plan.
- 2) A statement of the contracts secured to conduct the maintenance and monitoring activities required by the OMMPs including an identification of the contractors secured to conduct the work.
- 3) A list of steps to be taken and proposed implementation schedule to assure management controls and systems are in place to give surety that:
  - a. There is better internal coordination on potential compliance and environmental aspects of Camp Edwards operations;
  - b. There is clarity both internally and externally, on MANG staff roles and responsibilities;
  - c. There is greater communication on, and response to, current and emerging potential environmental or compliance problems; and,
  - d. Standard Operating Procedures and Camp Edwards Range Regulations are reviewed and updated to improve compliance and better address potential problems caused by Army Guard staff turnover.
- 4) A list of steps and an organizational chart to demonstrate the roles and responsibilities for providing the required notifications under the AOs and OMMPs.

In addition to the requirements in this notification, please be aware that EPA is considering seeking penalties under AO2 and the SDWA for these and prior violations, that EPA reserves all such enforcement and compliance rights, and that EPA does not view compliance with the requirements herein as necessarily the sole remedy for the violations described herein, and in prior correspondence, including but not limited to the 3 May 2011 EPA's letter summarizing previous violations.

Please do not hesitate to contact me at (617) 918-1210 should you have any questions.

Sincerely,



Lynne A. Jennings  
MMR Team Leader

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